



CALIFORNIA NEWS PUBLISHERS ASSOCIATION

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June 19, 2017

Senate Judiciary Committee
California State Senate
Sacramento, California 95814

RE: **AB 1479 (SUPPORT)**

Dear Senators Jackson, Moorlach, Anderson, Hertzberg, Manning, Stern and Weickowski:

I am writing to you on behalf of the California News Publishers Association to express the Association's support of AB 1479, which creates a civil penalty to fine bad actor agencies who fail to comply with the California Public Records Act (CPRA).

The CPRA assures citizens the right to prompt access to government records so that the public can scrutinize its institutions in real time. News organizations across the state rely on timely responses to their requests to inform readers about government activities and decisions. When agencies delay for months or years in responding to a request, or charge exorbitant and illegal fees as a predicate to access, agencies defeat the public's right to know.

Examples of agencies' failures to comply with the CPRA across the state abound. Just one is the *East Bay Times* reporting on the Ghost Ship fire. The newspaper sought records related to the fire in December 2016, and the City of Oakland said it would produce documents. But by February 2017, no records had been released. Ultimately, the newspaper had to threaten litigation to gain access to information of the utmost public concern, and the reporting on the fire earned the paper a Pulitzer Prize.

Delay makes newsworthy information stale, and deprives the public and lawmakers of information essential to holding elected representatives and government institutions accountable.

Agencies employ other tactics to avoid producing information. By charging thousands of dollars to permit a CPRA requester to access data and documents, an agency effectively denies access to all but the most tenacious and well-funded requesters.

Refusing to release documents which are clearly subject to public disclosure—in some cases, where the California Supreme Court has specifically said the information is public—damages the careful balance of interests as set forth by the Legislature, and undermines the constitutional mandate favoring access ratified by the state's citizens. Yet CNPA members are regularly denied access to information where case law or statute mandate disclosure, like public employee salary information, and information contained in police records.

AB 1479 incentivizes agencies to comply with the CPRA by giving a court adjudicating an access issue the discretion to penalize the agency if it engages in egregious or unscrupulous conduct. Similar to a speeding ticket, where the threat of an infraction and fine encourages drivers to comply with the laws of the road, AB 1479 seeks to create a consequence that will encourage agencies to better comply with the CPRA. And when the courts make findings that call out bad behavior, there is a broader impact on the legal positions agencies take with respect to the barriers they place on access.

It is important to note that AB 1479 retains the reasonableness and flexibility built into the CPRA to ensure that an agency that does comply with the letter and spirit of the law will not be penalized.

For these reasons, we urge your “aye” vote on AB 1479 when it comes before the Senate Judiciary Committee.

Sincerely,



Nikki Moore
CNPA Legal Counsel

cc: Bill Johnson, CNPA President, CEO, *Palo Alto Weekly*
Jeff Glasser, CNPA Governmental Affairs Chair, Vice President and Senior Counsel, *Los Angeles Times*
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